

U.S.S.N. 09/127,411
GRUENBERG
ELECTION AND PRELIMINARY AMENDMENT

Claims 37-40, 154, 160, 161, 163-167, 170, 171, 174, 175 and 177 are pending in this application. Claims 168, 169, 172, 173 and 176, which are withdrawn from consideration as allegedly being drawn to non-elected subject matter, are cancelled herein.

Applicant reserves the right to file divisional applications to the non-elected subject matter. The Examiner is reminded that as between the claims in this case and a divisional application directed to the cancelled claims obviousness-type double patenting cannot be held.

Traversal of the election of species requirement

Applicant respectfully traverses the election of species requirement set forth in paragraph 5 of the Office Action. All of the claimed methods employ at least two monoclonal antibodies; in some steps in the methods, the antibodies are used sequentially and in others the antibodies are added simultaneously. As claimed, the methods in the pending claims use a single antibody (*i.e.*, anti-CD3) for activation and then employ one or two antibodies in subsequent step(s). Hence, since some steps of the methods are performed with a single antibody and others with two antibodies, the claims cannot be divided on the basis set forth in paragraph 5. There are no claims directed to the species as set forth in the Office Action.

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In view of the remarks herein, reconsideration of election of species requirement and further examination of the application on the merits are respectfully requested.

Respectfully submitted,
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